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IDRA eNews

Transforming education by putting children first

Plyler v. Doe Supports High-Quality Schools

**U.S. Supreme Court Ruling 40 Years Ago Today Confirms
Immigrant Students' Rights to Attend Public Schools**



June 15, 2022

In one of those last-minute backdoor tricks, an amendment slipped through the Texas Legislature without debate in 1975 setting off a chain of events that shoved a specific selection of children out of school. Undocumented immigrant children were suddenly excluded from education.



In multiple school districts, with the help of advocates, brave parents took a stand, risking their own futures to secure that of their children.

IDRA provided extensive information for one of the first court cases dealing with the education of undocumented children in Texas, *Doe v. Plyler* (1978) and others. IDRA founder, Dr. José A. Cárdenas served as an expert witness for the Mexican American Legal Defense and Educational Fund (MALDEF) during the trial in Tyler, and IDRA's retired director of policy, Dr. Albert Cortez, testified in the Houston and Dallas court cases.



“To this day, I fail to comprehend the viciousness and tenacity of the educational leadership of this state,” recalled Dr. Cárdenas in his 1995 book, *Multicultural Education: A Generation of Advocacy*. “During the entire litigation, the educational leadership of the state was unique in providing objections, excuses, false estimates, invalid research findings and erroneous testimony in an incomprehensible attempt to exclude these children from the public schools of Texas.”

“Throughout the litigation, the children were treated as scapegoats for school financial and performance problems. IDRA found it readily apparent that the districts' poverty status could be attributed to an unfair and inequitable system of school finance, and districts with low local taxable wealth would remain poor with or without undocumented children.”

Then, on June 15, 1982, the U.S. Supreme Court ruled that public schools must serve all children, including undocumented students. The court concluded that denying students free enrollment in public schools based on immigration status violates the Equal Protection Clause of the 14th Amendment of the U.S. Constitution and Title IV of the *Civil Rights Act of 1964*.

The court said denying immigrant students enrollment in public schools creates a class of marginalized youth with limited opportunities for education and social advancement. Thus, federal law requires states to provide all children with equal access to public K-12 schools.



“I remember when the decision finally came down that day,” reflected Dr. Cortez in a recent interview (see below). “What a tremendous victory that was. But more importantly, what a tremendous relief it was for that fundamental issue about having access to public schools.”

“I felt the great relief that came with a recognition that this was going to be a national ruling and that children all over the country were going to be protected... When it comes to children, and certainly the tragedies that we’ve seen over the last few days, we must be ever vigilant and ever ready to protect the lives of those who are future.”

This decision is vital. As a result of the *Plyler* ruling, public schools may not:

- deny admission to a student during initial enrollment or at any other time on the basis of undocumented status;
- treat a student differently to determine residency;
- engage in any practices to "chill" the right of access to school;
- require students or parents to disclose or document their immigration status;
- make inquiries of students or parents intended to expose their undocumented status; or
- require social security numbers from all students, as this may expose undocumented status.



“In its short-sighted and discriminatory defense of the now-defunct law attempting to exclude immigrant children from public education, Texas officials argued that undocumented children were somehow not 'persons' worthy of constitutional protection,” stated IDRA chief legal analyst, Paige Duggins-Clay, J.D.

“The Supreme Court unequivocally rejected this racist and xenophobic argument, and current leaders calling for a return to a morally bankrupt, unconstitutional system of public education would do well to refresh themselves on the U.S. Supreme Court’s findings in this historic case, which affirm the rights of all children to access a high-quality education.”

And like other students, children of undocumented workers in fact are required under state laws to attend school until they reach a mandated age.

Plyler v Doe at 40 – Schooling Guaranteed for Immigrant Children

IDRA Classnotes Podcast #224

The Law in Education – Plyler v. Doe

U.S. Supreme Court Ruling 40 years ago confirmed immigrant students' rights to attend public schools

Albert Cortez, Ph.D.
Retired IDRA Director of Policy

Paige Duggins-Clay, J.D.
IDRA's Chief Legal Analyst

June 15, 2022

See our new video interview **launched today** on the 40th anniversary of *Plyler v. Doe* featuring Dr. Albert Cortez, who testified in one of the cases in Texas. He sat down with IDRA chief legal analyst, Paige Duggins-Clay, J.D., to discuss the history of the case, the plaintiffs, the arguments, and the impact of the U.S. Supreme Court ruling.

Why does this matter for quality school programs?

All students deserve access to high-quality public schools. Programs that support early literacy and academic success, such as early education and bilingual and special education, prepare students for the rest of their educational careers and beyond.



Plyler v. Doe supports high-quality schools by:

- protecting basic access for all students to enroll in school;
- promoting trust and safety among schools, students and families; and
- ensuring that all eligible children get the educational services they deserve.

What does threatening *Plyler v. Doe* mean for Texas students?

Some politicians have tossed around the idea of challenging the well-established laws from *Plyler v. Doe* despite its critical role in our educational

and economic prosperity. Such a challenge means:

- denying children an education;
- discriminating against children based on their or their families' citizenship; and
- creating an underclass of children without basic educational or economic opportunities.

But no governor - or president - can override this ruling.

What can you do to protect and promote high-quality schools for all children?

At IDRA, we are working to strengthen schools to work for all children, families and communities. Help us make this goal a reality for every child; we simply cannot afford the alternatives. **Denying children of undocumented workers access to an education is unconstitutional and against the law.**

- Openly and vocally oppose efforts to challenge *Plyler v. Doe* and corresponding guidelines for equal educational access.
- Ensure all school leaders create welcoming environments for all children and their families.
- Support local and state policies that support safe and inclusive schools for students and teachers, including through inclusive curricula, investments in early education and bilingual education programs, and support for mental health and counseling staff who are knowledgeable of students' and families' rights.
- Share IDRA's bilingual infographic, Welcoming Immigrant Students in School, which has more information on what schools can do.

School personnel - especially principals and those involved with student registration and enrollment - should be aware that they have no legal obligation to enforce U.S. immigration laws.

Visit IDRA's **Education of Immigrant Children webpage** for resources, including a copy of the letter from the U.S. Department of Justice and the U.S. Department of Education and state-level information on student enrollment in the states served by the IDRA EAC-South.

Bilingual Infographic



Welcoming Immigrant Students in School



Immigrant students are guaranteed access to free public education by the U.S. Supreme Court.

Certain procedures must be followed when registering undocumented immigrant children (and those whose parents are undocumented) in school to avoid violation of their civil rights as outlined in the Plyler vs. Doe decision.



Public schools cannot deny admission to a student on the basis of undocumented status.



Public schools cannot require students or parents to disclose their immigration status.



Public schools cannot ask students or parents questions intended to expose their undocumented status.



Public schools cannot require social security numbers from students or parents.



Public schools cannot demand that parents produce driver's licenses or other identification documents that are not required.



Public schools cannot engage in any practices that "chill" or hinder the right of access to school.

All children are **required** under state laws to attend school until they reach a mandated age.



School personnel have no legal obligation to enforce U.S. immigration laws.



U.S. Immigration and Customs Enforcement (ICE) agents are to refrain from enforcement actions at certain sensitive locations, which include schools, as detailed in ICE's own policies.



The Family Education Rights and Privacy Act prohibits schools from providing any outside agency (including ICE) with any information from a child's school file that would expose the student's undocumented status.



The only exception is if an agency gets a court order (subpoena) that parents can then challenge.

What schools can do...

Focus on teaching all students.

Pro-actively show parents that their children are welcome.

Ensure teachers and staff are properly trained about protecting the rights of children and on culturally competency.

Communicate with parents in their language.

Share information about resources for students, families and educators (in English and other languages at the school).



Review all of your enrollment and registration documents (including forms, websites, and communications with parents) to be clear that the provision of the child's social security number, birth certificate, etc., is voluntary, and that not providing such information will not bar a child's enrollment.



Adults without social security numbers who are applying for a free lunch and/or breakfast program for a student need only state on the application that they do not have a social security number.



Get more info and resources, including IDRA's School Opening Alert Flier & eBook.
<https://idra.news/IDRAigwWelcome>

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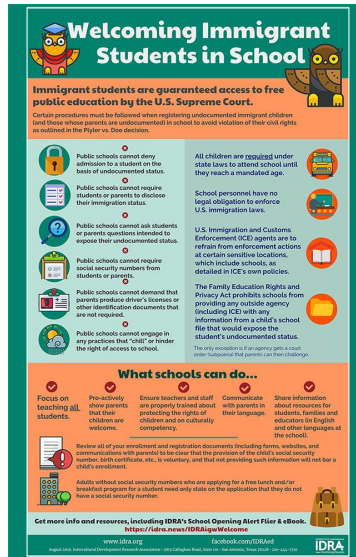
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Useful Tools



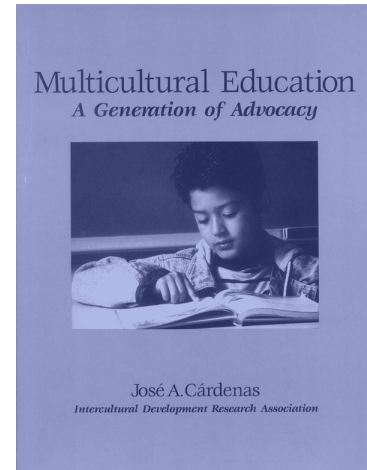
See our eBook on
Supporting Immigrant
Students' Rights to Attend
Public Schools with
resources for schools and
communities (English-
Spanish)

eBook



Print our infographic on
Welcoming Immigrant
Students in School -
available in poster size!

Infographic



See the chapter from
*Multicultural Education: A
Generation of Advocacy* with
articles written by Dr. José
Cárdenas during and
following the *Plyler* court
cases

PDF

Free Webinars on Education for Immigrant Families

IDRA and the Consulate General of Mexico in San Antonio have been partnering to help Mexican and Mexican American families navigate the U.S. education system and learn about important educational opportunities in both countries. IDRA's Ventanilla de Orientación Educativa (VOE) in San Antonio launched a portal with bilingual materials and videos for families.



Topics

- * Rights of Immigrant Students (PreK-12)
- * Navigating the U.S. K-12 Education System
- * College Financial Aid Opportunities for Immigrant Students
- * Adult & Community Education Opportunities in Spanish
- * Educational Opportunities in Mexico for Nationals Living in Both Countries

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IDRA
— Transforming Education

Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college.

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